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10/605,886	11/04/2003	Ronald J. DeHaas	28749.00003	2885

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EXAMINER	
NGUYEN, DUSTIN	
ART UNIT	**PAPER NUMBER**
2154	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No.	Applicant(s)	
	10/605,886	DEHAAS ET AL.	
	Examiner	Art Unit	
	Dustin Nguyen	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 November 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1 – 40 are presented for examination.

Response to Arguments

2. Applicant's arguments filed 11/19/2007 have been fully considered but they are not persuasive.

3. In response to applicant's argument that Fulgoni reference is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Fulgoni reference is in the same field of applicant's endeavor which provides a method and system useful for collecting consumer data by using software application applet which can be downloaded or installed through other know methods [col 11, lines 47-59].

4. As per remarks, Applicants' argued that (1) Fulgoni does not disclose the element of software application that involves a computer communicatively connected to a remote server.

5. As to point (1), Fulgoni discloses a computer PC 12 which is connected by wired or wireless to a computer 18, which is a general purpose computer that includes application software which controls the computer to function as a data server, and can be an ISP and includes application software controlling computer 18 to function at least as a firewall, proxy server or both [i.e. broadly interpreted as a computer communicatively connected to a remote server as claimed] [Figure 1; and col 5, lines 14-50].

6. As per remarks, Applicants' argued that (2) Fulgoni does not disclose a voluntary monitoring program installed on the computer by a user.

7. As to point (2), Fulgoni discloses a small application software applet which can be directly downloaded or manually installed or modified by a technician [i.e. broadly interpreted as voluntary monitoring program installed on the computer by a user as claimed] [col 11, lines 48-59].

8. As per remarks, Applicants' argued that (3) Fulgoni does not disclose wherein the Internet access activity includes access to at least one Internet protocol from a group consisting of network news transfer protocols, file sharing programs, file transfer protocols, chat room access, peer to peer chats, and electronic mail activity.

9. As to point (3), Fulgoni discloses the above limitation [i.e. secure internet transfer protocols can be used between an internet consumer and an internet content provider while still monitoring and collecting data from the user's internet activities] [col 9, lines 31-42].

10. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Fulgoni and Linden because the teaching of Linden on the result list is sorted in order of the score would provide personalized item recommendations to users and/or to provide users with non-personalized lists of related items [Linden, col 2, lines 60-64].

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 1-4, 7, 9-13, 16, 18-20, 23, 24, 26 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Fulgoni et al. [US Patent No 7,181,412].

13. As per claim 1, Fulgoni discloses the invention as claimed including a system for monitoring Internet use of a selected user [i.e. a system and method for collecting data indicative or representative of specific internet user's activity] [col 2, lines 7-35; and col 4, lines 27-30], comprising:

a remote server [i.e. data server] [18, Figures 1 and 2; and col 5, lines 29-50];

a computer communicatively connected to said remote server having a monitoring program voluntarily installed thereon by the computer user [i.e. consumer volunteers to install a small application software applet] [col 4, lines 39-44; and col 11, lies 33-59], said monitoring program configured to monitor Internet access activity of the computer user and record said Internet access activity within said remote server [i.e. all of the activity to be filtered and data to be collected about specific types of activity and stored on the data servers] [Figure 3; col 4, lines 32-34; and col 8, lines 23-41]; and

wherein said Internet access activity includes access to at least one Internet protocol from a group consisting of network news transfer protocols, file sharing programs, file transfer protocols, chat room access, peer to peer chats, and electronic mail activity [col 11, lines 40-47; and col 12, lines 1-18].

14. As per claim 2, Fulgoni discloses wherein said remote server includes a processing program, said processing program configured to analyze said recorded Internet access activity and generate a report of said Internet access activity [col 10, lines 35-45; and col 13, lines 31-48].

15. As per claim 3, Fulgoni discloses wherein said report includes a list of said recorded Internet access activity and a score assigned to each said recorded Internet access activity [i.e. generating a score model] [col 12, lines 54-col 13, lines 6; and col 14, lines 17-31].

16. As per claim 4, Fulgoni discloses wherein said report is accessible by a third party recipient [col 13, lines 7-30].

17. As per claim 7, Fulgoni discloses wherein said report includes at least one portion and said at least one portion includes at least one link to at least one other portion [i.e. URL link] [col 12, lines 28-33; and col 13, lines 9-12].

18. As per claim 9, Fulgoni discloses including a first database located within said remote server, and wherein said monitored Internet access activity is stored on said first database [i.e. data server] [18, Figures 1 and 2; Abstract; and col 5, lines 29-50].

19. As per claim 10, Fulgoni discloses wherein said remote server further includes a processing program and a second database, said processing program configured to analyze said

recorded Internet access, and transfer said recorded Internet access activity to said second database [i.e. multiple proxy servers] [Figure 3; col 8, lines 23-41; and col 9, lines 43-63].

20. As per claims 11 and 12, they are rejected for similar reasons as stated above in claims 2 and 3.

21. As per claim 13, it is rejected for similar reasons as stated above in claim 4.

22. As per claim 16, it is rejected for similar reasons as stated above in claim 7.

23. As per claims 18 and 19, they are rejected for similar reasons as stated above in claims 1, 9 and 10.

24. As per claim 20, it is rejected for similar reasons as stated above in claims 10 and 13.

25. As per claim 23, Fulgoni discloses the step of: assigning a score to said Internet access activity based on predetermined scoring criteria [i.e. metric] [col 12, lines 54-col 13, lines 6].

26. As per claim 24, Fulgoni discloses the step of: preparing a report of said Internet access activity, said report including said score [col 13, lines 50-col 14, lines 2].

27. As per claim 26, Fulgoni discloses wherein said score includes a numeric score [col 12, lines 54-col 13, lines 6; and col 14, lines 17-31].

28. As per claim 27, Fulgoni discloses wherein said score includes a relative score [col 12, lines 54-col 13, lines 6; and col 14, lines 17-31].

Claim Rejections - 35 USC § 103

29. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

30. Claims 5, 6, 8, 14, 15, 17, 21, 22, 25, and 28-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fulgoni et al. [US Patent No 7,181,412], in view of Linden et. al. [US Patent No 6,912,505].

31. As per claim 5, Fulgoni does not specifically disclose wherein said report displays said list of said recorded Internet access activity sorted by said score. Linden discloses wherein said report displays said list of said recorded Internet access activity sorted by said score [i.e. sorted in order of highest-to-lowest score] [col 13, lines 62-67; and col 23, lines 38-44]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Fulgoni and Linden because the teaching of Linden would provide a method for

determining relatedness between products or other viewable items represented within a database, and for using item relatedness data to recommend items to users [Linden, col 1, lines 11-16].

32. As per claim 6, Linden discloses wherein said report displays said list of said recorded Internet access activity sorted chronologically [col 12, lines 40-59; and col 22, lines 47-60].

33. As per claim 8, Fulgoni discloses wherein each of said at least one portions contains a list of recorded Internet access activity of one of said Internet protocols [col 12, lines 13-17]. Fulgoni does not specifically disclose wherein said portions further include a computer link to connect to another portion of said report. Linden discloses wherein said portions further include a computer link to connect to another portion of said report [i.e. viewing history] [Figures 6, 11 and 12; and col 29, lines 30-53]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Fulgoni and Linden because the teaching of Linden would provide a method for determining relatedness between products or other viewable items represented within a database, and for using item relatedness data to recommend items to users [Linden, col 1, lines 11-16].

34. As per claims 14 and 15, they are rejected for similar reasons as stated above in claims 5 and 6.

35. As per claim 17, it is rejected for similar reasons as stated above in claim 8.

36. As per claim 21, Fulgoni does not specifically disclose wherein providing said report includes notifying said third party recipient to access said second database to view said report. Linden discloses wherein providing said report includes notifying said third party recipient to access said second database to view said report [Figures 6, 11 and 12; and col 4, lines 17-34]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Fulgoni and Linden because the teaching of Linden would provide a method for determining relatedness between products or other viewable items represented within a database, and for using item relatedness data to recommend items to users [Linden, col 1, lines 11-16].

37. As per claim 22, Linden discloses wherein providing said report includes electronically sending said report to said third party recipient at pre-selected time intervals [col 12, lines 60-col 13, lines 2].

38. As per claim 25, it is rejected for similar reasons as stated above in claim 5.

39. As per claim 28, it is rejected for similar reasons as stated above in claim 6.

40. As per claim 29, it is rejected for similar reasons as stated above in claims 1, 7 and 8.

41. As per claim 30, it is rejected for similar reasons as stated above in claim 4.

42. As per claim 31, Fulgoni discloses wherein said report further includes a score assigned to each Internet access activity listed [col 14, lines 17-31].

43. As per claims 32 and 33, they are rejected for similar reasons as stated above in claims 5 and 6.

44. As per claim 34, it is rejected for similar reasons as stated above in claims 1, 7 and 8.

45. As per claim 35, it is rejected for similar reasons as stated above in claim 4.

46. As per claims 36 and 37, they are rejected for similar reasons as stated above in claims 21 and 22.

47. As per claim 38, it is rejected for similar reasons as stated above in claim 23.

48. As per claims 39 and 40, they are rejected for similar reasons as stated above in claims 5 and 6.

49. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached at (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen

Examiner

Art Unit 2154